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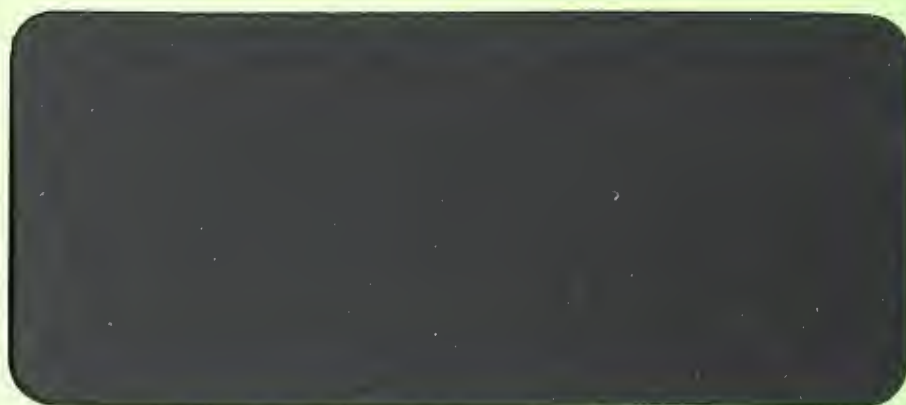


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ECONOMIC REGULATION

1981

VOLUME I - PART 1



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READINGS AND MATERIALS

FOR

ECONOMIC REGULATION

1981

VOLUME I - PART 1

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University of Toronto

ECONOMIC REGULATION

COURSE OUTLINE

<u>WEEK 1:</u>	<u>RATIONALES FOR REGULATION</u>	<u>PAGE</u>
A.	<u>Required</u>	
1.	Trebilcock, Waverman and Prichard, "Markets for Regulation", in Ontario Economic Council, <u>Government Regulation: Issues and Alternatives</u> (1978), p.11	001
2.	Ostry, "Government Intervention in Democratic Market Economies: A Comparison of Canada and the United States", Economic Council of Canada (1978)	050
3.	Courchene, "Towards a Protected Society: The Politicization of Economic Life", (1980) Can. J. Ecs.	072
B.	<u>Supplementary</u>	
1.	Kahn, "The Rationale of Regulation and the Proper Role of Economics" in <u>The Economics of Regulation</u> , Volume 1, pp. 1-19.	
2.	Kahn, "Destructive Competition and the Quality of Service" in <u>The Economics of Regulation</u> , Volume 2, pp. 172-220 (particularly pp. 172-178).	
3.	Lerner, "Conflicting Principles of Public Utility Regulation:", 7 <u>J. Law & Econ.</u> 61 (1964).	
4.	Joskow & Noll, "Regulation in Theory and Practice", (1977, mimeograph).	
5.	Boies and Verkuil, <u>Public Control of Business</u> (1977).	
6.	Stigler, "The Theory of Economic Regulation", 2 <u>Bell Journal</u> 5 (1971).	
7.	Posner, "Theories of Regulation" 5 <u>Bell Journal</u> 335 (1974).	
8.	Posner, "Taxation by Regulation" 2 <u>Bell Journal</u> 22 (1971).	
9.	Stigler, "Free Riders and Collective Action", 5 <u>Bell Journal</u> (1974)	

10. Lowi, The End of Liberalism (1969).
11. McManus, Federal Regulation of Transport in Canada (1972) (Paper for the Consumer Research Council).
12. Report to the Congress by the Comptroller General of the United States, Governmental Regulatory Activity: Justification, Processes, Impacts, and Alternatives, (1977).
13. "The Impact of Federal Regulation", Challenge Magazine, Nov.-Dec., 1976, pp. 34-52.
14. Wilson, "The Dead Hand of Regulation", 25 Public Interest 39 (1971).
15. Kolko, Railroads and Regulation, 1877-1916, (1965).
16. Trebing, "The Chicago School versus Public Utility Regulation", 10 Journal of Econ. Issues 97 (1976).
17. Peltzman, "Toward a More General Theory of Regulation", 19 J. Law & Econ. 211 (1976) and comment by Hirshleifer, 19 J. Law & Econ. 241 (1976).

WEEK 2:	<u>THE NATURE OF THE REGULATORY PROCESS</u>	<u>PAGE</u>
A.	<u>Required</u>	
1.	Reich, "Warring Critiques of Regulation", <u>Regulation</u> (Jan./Feb. 1979)	094
	a) <u>Choice of Instrument</u>	
	Trebilcock and Hartle, The Choice of Governing Instrument, Law and Economics Workshop, WSIII-1 September, 1980.	100
	b) <u>Independence</u>	
	Janisch, "Policy Making in Regulation" Towards a New Definition of the States of Independent Regulatory Agencies in Canada", 17 Osgoode Hall L.J.	153
	c) <u>Public Participation</u>	
	Engelhart and Trebilcock, Public Participation in the Regulatory Process: The Issues of Funding, Economic Council of Canada (1980) Chapters 2,3, and 6.	214

B. Supplementary

1. Cutler and Johnson, "Regulation and the Political Process", 84 Yale L.J. 1395 (1975).
2. Janisch, "The Role of the Independent Regulatory Agency in Canada", 27 U.N.B.L.J. 83 (1978).
3. Ostry, "Government Intervention in Democratic Market Economics: A Comparison of Canada and the United States", Economic Council of Canada (1978).
4. Trebilcock, "Regulators and the Consumer Interest: The Canadian Transport Commission's Costs Decision" 2 C.B.L.J. 101 (1977-78).
5. Canadian Consumer Council, Inventory of Federal and Ontario Agencies by Type (1971, mimeograph) (federal portions only excerpted).
6. Bresner and Leigh-Bell, "Ontario's Agencies, Boards, Commissions, Advisory Bodies and Other Public Institutions: An Inventory (1977)" in Ontario Economic Council, Government Regulation (1978).
7. Doern, "Concluding Observations: Regulatory Process, Performance, and Reform" in The Regulatory Process in Canada (1978).
8. Economic Council of Canada Reference on Regulation: A Preliminary Report to First Ministers (November 1978).
9. Consumers Association of Canada, Inventory of Federal Regulatory Agencies in Canada (1975) plus Ontario Regulatory Agencies: A Preliminary Compilation
10. Brown-John, "Defining Regulatory Agencies for Analytical Purposes" 19 Can. Public Admin. 149 (1976).
11. Janisch, A.H., Publication of Administrative Board Decisions in Canada (1972).
12. Doern et al., "The Structure and Behaviour of Canadian Regulatory Boards and Commissions: Multidisciplinary Perspectives" 18 Can. Public Admin. 189 (1975).

13. Joskow, "Inflation and Environmental Concerns: Structural Change in The Process of Public Utility Price Regulation:", 17 J. Law & Econ. 291 (1974) at pp. 291-305 and 314-327.
14. The Public Interest, Pluralism, Participation:
15. Trebilcock, "Winners and Losers in the Modern Regulatory System: Must the Consumer Always Lose?" 13 Osgoode Hall L.J. 619 (1975).
16. Stewart, "The Reformation of American Administrative Law", 88 Harv. L. Rev. 1669, (1975).
17. Gellhorn, "Public Participation in Administrative Proceedings" 81 Yale L.J. 359 (1972).
18. Johnson, "A New Fidelity to the Regulatory Ideal" 59 Georgetown L.J. 869 (1971).
19. Shapiro, "Some Thoughts on Intervention Before Courts, Agencies and Arbitrators", 81 Harv. L. Rev. 721 (1968).
20. Emond, "Participation and The Environment: A Strategy for Democratizing Canada's Environmental Protection Laws" 13 Osgoode Hall L.J. 783 (1975).
21. Symposium on Public Participation in Resource Decisionmaking 16 Natural Resources L.J., 1-236 (1976) including Lucas, "Legal Foundations for Public Participation in Environmental Decision-making" 73-102 (Canadian).
22. Schraub, "The Office of Public Counsel: Institutionalizing Public Interest Representation in State Government" 63 Georgetown L.J. 896 (1976).
23. Ackerman et al., "Controlling Technocracy: Principles for Institutional Reconstruction", chapter 10 in The Uncertain Search for Environmental Quality (1974).
24. Boyer, "Alternatives to Administrative Trial-Type Hearings for Resolving Complex Scientific, Economic and Social Issues" 71 Michigan L. Rev. 111 (1972).
25. Willis, "The McRuer Report: Lawyer's Values and Civil Servant's Values" 18 U.T.L.J. 351 (1968).
26. Mullan, "Standing After McNeil" 8 Ottawa L. Rev. 32 (1976).

27. Stone, "Should Trees Have Standing?" 45 S. Cal. L. Rev. 450 (1972).
28. Murphy, "The National Environmental Policy Act and the Licensing Process" 72 Columbia L. Rev. 963.
29. Doern, The Regulatory Process in Canada (1977, mimeograph).
30. Doern, Regulatory Processes and Jurisdictional Issues in the Regulation of Hazardous Products in Canada (1977) (Science Council of Canada) pp. 17-30.
31. Jaffe, "The Illusion of the Ideal Administration", 86 Harv. L. Rev. 1183 (1973).
32. Robinson, "The Making of Administrative Policy: Rule-making and Adjudication and Administrative Procedure Reform", 118 U. Penn L. Rev. 485.
33. Wade, "Anglo-American Administrative Law: Some Reflections" 81 L.Q.R. 357 (1964).
34. Doern, The Atomic Energy Control Board (1977).
35. Sabatier, "Regulatory Policy-Making: Toward a Framework of Analysis" 17 Nat. Res. J. 415 (1977).
36. Studies of The Consumer Interest in Regulation in Canada, Canadian Consumer Council (27-34).
37. Canadian Consumer Council, Report on The Consumer Interest in Regulatory Boards and Agencies (1973).
38. Stanbury, The Consumer Interest in Public Utility Regulation (1973) (a paper prepared for the Canadian Consumer Council).
39. Trebilcock, The Case for a Consumer Advocate (1972) (a paper prepared for the Canadian Consumer Council).
40. Dawson, The Canadian Radio-Television Commission and the Consumer Interest (1972) (a paper prepared for the Canadian Consumer Council).
41. Cayne, Consumer Representation Before Quebec Regulatory Agencies (1972) (a paper prepared for the Canadian Consumer Council).

42. Richardson, Consumer Interest Representation: Three Case Studies (1972) (Tariff Board, Anti-Dumping Tribunal, Textile and Clothing Board).
43. Westmacott, The Canadian Transport Commission, Freight Rates and the Public Interest (1972) (a paper prepared for the Consumer Research Council).
44. Belobaba, et al., On the Question of Consumer Advocacy -- A Working Paper (1972) (a paper prepared for the Canadian Consumer Council) (particularly pp. 70-139 on standing).
45. Roman, A Proposal for a Public Interest Advocacy Centre in Canada (1976).
46. Boyer, "Alternatives to Administrative Trial-Type Hearings for Resolving Complex Scientific, Economic and Social Issues", 71 Mich. L. Rev. 111 (1972).
47. Robinson, "The Making of Administrative Policy: Another Look at Rulemaking and Adjudication and Administrative Procedure Reform", 118 Univ. of Penn. L. Rev. 485 (1970).
48. Gellhorn, "Public Participation in Administrative Proceedings", 81 Yale L.J. 359 (1972).
49. Briefs submitted to the CRTC's Procedures Hearing in 1976 (on reserve).
50. Noll, Reforming Regulation (1971) pp. 77-111.
51. Jones, "Judicial Determination of Public Utility Rates: A Critique", 54 Boston U.L. Rev. 873 (1974).
52. Westwood, "Administrative Proceedings: Techniques of Presiding", 50 ABAJ 659 (1964).
53. Ross, "The Big Administrative Proceeding: A Response to Mr. Westwood" 51 ABAJ 239 (1964).
54. Zwerdling, "A Plea for Clemency for Cross-Examination" 57 ABAJ 45 (1971).
55. Courville & Dagenais, "On New Approaches to Regulation of Bell Canada", 3 Can. Public Policy 1 (1977).
56. Johnston, "Notes on the Procedure at CRTC Public Hearings", 4 Can. Com. L. Rev. 130 (1972).

57. Doern, "The Regulatory Process in Canada" in The Regulatory Process in Canada (1978) pp. 13-18.
58. Prichard, "The Instruments of Regulation" (May, 1979)
59. Becker, "Comment", 19 J. Law & Econ. 245
60. Trebilcock, "The Consumer Interest and Regulatory Reform", in The Regulatory Process in Canada (1978), pp. 106-124.

WEEK 3:	<u>NATURAL MONOPOLY</u>	<u>PAGE</u>
A.	<u>Required</u>	
1.	Morgan, <u>Economic Regulation of Business</u> (1976), pp. 1-2	272
2.	Posner, "Natural Monopoly and its Regulation", 21 <u>Stanford L. Rev.</u> 548 (1969)	274
3.	Demsetz, "Why Regulate Utilities", 11 <u>J. Law & Econ.</u> 55 (1968)	370
4.	Demsetz, "On the Regulation of Industry: A Reply" 11 <u>J. Law & Econ.</u> 55 (1968).	380
5.	Williamson, "Franchise Bidding For Natural Monopolies - in General and with Respect to CATV" (mimeograph, 1977)	388
6.	<u>In the Matter of the Applications of United Parcel Service Canada Ltd., Reasons for Decision, Ontario Highway Transport Board, 1977</u>	420
B.	<u>Supplementary</u>	
1.	Kahn, "The Role and Definition of Competition: Natural Monopoly" in <u>The Economics of Regulation</u> , Volume 2, pp. 113-171.	
2.	Koller, "Why Regulate Utilities? To Control Price Discrimination", 16 <u>J. Law & Econ.</u> 191 (1973).	
3.	Kahn, "Monopoly and Protectionism" in <u>The Economics of Regulation</u> , Vol. 2, pp. 1-46.	

WEEK 4:	<u>RATE BASE/RATE OF RETURN REGULATION</u>	<u>PAGE</u>
1.	<u>Introduction -- Revenue Requirement</u>	
	Garfield and Lovejoy: <u>Public Utility Economics</u> , Chapter 5	445
	Halpern, <u>An Analysis of the Rate Base -- Rate of Return Form of Regulation</u> (1973), Chapter I.	457
2.	<u>Rate Base</u>	
	a) <u>One Product Utility</u>	
	Garfield and Lovejoy, Chapter 6, and Chapter 7	483
	Halpern: <u>An Analysis of . . .</u> , Chapter II, pp. II-1 to II-13	502
	b) 1) <u>Working Capital</u>	
	Halpern, "The Choice of an Appropriate Rate Base", pp. 24-31	515
	ii) <u>Used and Useful</u>	
	Halpern, "The Choice . . ." pp. 34-36	522
	iii) <u>Acquisition Cost of a Subsidiary</u>	
	Halpern, "The Choice . . .", pp. 37-40	
	Excerpt from Ontario Telephone Services Commission Interim Order No. 3333 re TelOntario Incorporated p. 2-12.	529
	c) <u>Problems of Vertical Integration</u>	
	Halpern, "The Choice . . ." Chapters I, II and III	543
WEEK 5:	<u>RATE BASE/RATE OF RETURN REGULATION</u>	
	<u>Overview</u>	
	Garfield and Lovejoy: Chapter 9	565
	Weston, Brigham and Halpern, <u>Essentials of Canadian Managerial Finances</u> , Chapters 18 and 20	585
	<u>Cost of Preferred Equity</u>	
	Halpern, "An Analysis of the Rate Base", pp. III-30 to III-35	653

Cost of Common Equity

Comparable Earnings

- Halpern, "Determining the Cost of Equity Capital", Chapter II,
pp. II-2 to II-3 659

Market Based Techniques

- Halpern, "Determining the Cost of Equity Capital", pp. II to
II-12 662

Comparative Techniques and Capital Asset Pricing

- Halpern, "Determining the Cost of Equity Capital", pp. II-13 -
II-22 675
J.C. VanHorne, "Financial Management", Chapter 5, pp. 118-22 683

- Brigham and Crum, On the Use of the CAPM in Public Utility
Rate Cases* 688

- Myers, On the Use of Modern Portfolio Theory in Public Utility
Rate Cases: Comment 697

Implementation

- Halpern, "Determining the Cost of Equity", Chapter III 700
Halpern, "Cost of Equity Capital for Westcoast Transmission" 713

Relationship of Allowed Rate of Return and Cost of Capital

- Halpern, An Analysis of the Rate Base, Chapter II 732

WEEK 6: ENTRY REGULATIONPAGEA. Required

1. Broadwith, Hughes and Associates, "The Ontario
Milk Marketing Board: An Economic Analysis" in
Government Regulation: Issues and Alternatives 1978,
Ontario Economic Council, 1978. 745
2. Schreiber, "The Economic Reasons for Price and Entry
Regulation of Taxicabs", Journal of Transport
Economics and Policy, Sept. 1975. 780

3. Bonsor, "The Development of Regulation in the Highway Trucking Industry in Ontario" in Government Regulation: Issues and Alternatives 1978, Ontario Economic Council, 1978. 792 792
4. In the Matter of the Applications of United Parcel Service Canada Ltd., Reasons for Decision, Ontario Highway Transport Board, 1977. (See Week 3).

WEEK 7: PUBLIC OWNERSHIP PAGE

A. Required Readings

1. Trebilcock and Prichard, "Public Enterprise" Chap. 7 in The Choice of Governing Instruments (Economic Council of Canada 1980) 816

B. Supplementary

Palmer, Quinn and Rescendes, A Case Study of Public Enterprise Gray Coach Lines Ltd.

Borcherding, Towards a Positive Theory of Public Sector Supply Arrangements

WEEK 8: PRICING PAGE

A. Required

1. W.J. Baumol, "Rate Making: Incremental Costing and Equity Considerations" in H.M. Trebbing (ed.) Essays on Public Utility Pricing and Regulation, Michigan State University, East Lansing, 1971 898
2. W.W. Stevenson and M. Jackson, "Marginal Cost Pricing in Canadian Gas and Electric Rates", Proceedings of the 1976 Symposium on Rate Design Problems of Regulated Industries, Missouri 1976 911
3. Joskow, Contribution to the Theory of Marginal Cost Pricing, Bell Journal of Economics

WEEK 9	<u>PRICING</u>	<u>PAGE</u>
1.	Kahn, <u>The Economics of Regulation</u> , Vol. 1, Chap. 3; Vol. 1I, Chap. 5, pp. 220-246.	931
2.	C. Chiccetti, "Electricity Price Regulation: Critical Crossroads or New Group Participation Sport", Public Utilities Fortnightly, Aug. 29, 1974.	981

